IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13287 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAKINABIBI BASULBEG MALEK - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR HR PRAJAPATI for Petitioner(s) : 1,
MR SIRAJ GORI for Respondent(s) : 1,
MR HS MUNSHAW for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 16/11/2005

ORAL JUDGMENT

In the present petition, the petitioner has challenged her removal from the position of Sarpanch of Mahalej village, Taluka Matar, Dist: Kheda. For certain

alleged irregularities committed by the petitioner, a notice under section 57(1) of the Gujarat Panchayats Act, 1993 (hereinafter to be referred to as the “said Act”) came to be issued against her on 14.8.2002. As many as 8 allegations were made against the petitioner, many of which included those of financial irregularities. The petitioner filed reply to the show cause notice on 16.9.2002 and denied the charges. The District Development Officer considered the reply of the petitioner and the material on record and by an order dated 1.5.2003 removed the petitioner from the position of Sarpanch of the Gram Panchayat. The petitioner unsuccessfully appealed against the order of the District Development Officer. Her appeal was rejected by the Additional Development Commissioner by the order dated 14.8.2003. The petitioner has, therefore, challenged these orders in the present petition.

2. As noted earlier, number of allegations were made against the petitioner. It was alleged that though one Shri Basirmiya Bhulamiya Malek was to be paid an amount of Rs.1490/- two bearer cheques of Rs.3327/- and Rs.28835/- totalling too Rs.32,162/- were given to him which were encashed. There were several other

allegations which also raised the suspicion about the integrity of the petitioner. Besides these allegations of financial irregularities, number of allegations pertaining to procedural irregularities on several occasions were made made against the petitioner. The District Development Officer found sufficient material on record to hold these charges as proved. The Additional Development Commissioner concurred with the view of the District Development Officer.

3. Nothing has been pointed out on record to dislodge these findings of fact. In exercise of powers under Articles 226/227 of the Constitution of India, no case is made out for interference with these findings of fact of the authorities below. After giving sufficient opportunity to represent her case in response to the show cause notice, the authorities found that the charges against the petitioner were proved. Though it is stated in the petition that the District Development Officer passed the order on 1st May 2003 after his transfer on 31st April 2003, no such ground has been taken by the petitioner in the appeal filed before the Development Commissioner. This is a pure question of fact which canto be permitted to be raised for the first time in

this petition.

4. In the result, I do not find any reason to interfere with the orders passed by the authorities below. The petition is therefore rejected. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)

(vjn)